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FISCAL IMPACT STATEMENT

LS 6521

BILL NUMBER: HB 1357

NOTE PREPARED: Dec 30, 2008

BILL AMENDED:

SUBJECT: Restrictions on Public Benefits to Illegal Aliens.

FIRST AUTHOR: Rep. Noe

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☒ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill prohibits a state agency or political subdivision from providing federal, state, or local public benefits to an individual who is not: (1) a United States citizen; or (2) a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the United States. The bill requires a state agency or political subdivision to verify the lawful presence of each individual in the United States who: (1) is at least 18 years of age; and (2) applies for federal, state, or local public benefits administered by the agency or political subdivision. It requires a state agency or political subdivision to: (1) verify the lawful presence of the person by requiring the person to execute a verified affidavit stating that the person is a United States citizen or qualified alien lawfully present in the United States; (2) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (3) report errors and significant delays in the SAVE program.

The bill also requires a state agency to provide an annual report with respect to the agency's compliance with the verification requirements. This bill provides that: (1) a state agency or political subdivision may provide variations of the verification of lawful presence requirements; and (2) an individual who makes a false, fictitious, or fraudulent statement of representation in an affidavit verifying lawful presence commits a Class D felony.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This legislation will ban unauthorized aliens from receiving public benefits from any state entity. The bill requires state agencies and political subdivisions to verify the legal presence of each individual who is (1) at least 18 years of age and (2) applies for federal, state, or local public benefits. Under the bill, verification would be required unless the public benefits provided (1) do not

require lawful presence in the United States, (2) emergency medical treatment not related to organ transplants, (3) emergency disaster relief, (4) immunizations and treatment for other communicable diseases, (5) counseling, intervention, and short term shelter in-kind benefits, and (6) prenatal care.

The legislation will require individuals to sign an affidavit stating they are legally present in the United States as a condition of receiving public benefits. State agencies are then required to verify the legal status of applicants claiming to be qualified aliens and legally present in the United States by using the SAVE program. During the process of making a determination, a signed affidavit serves as proof of the individual's lawful presence until a SAVE determination can be made. A person who knowingly or intentionally makes a false or fictitious claim on the affidavit commits a Class D felony.

This bill adds qualification criteria that state agencies are required to use in determining eligibility for public benefits. The bill will increase the workload of state agencies by requiring agencies to: (1) collect information from applicants regarding authorized status, (2) use the SAVE program to verify legal presence of those that claim to be qualified aliens and who sign the affidavit, (3) report any problems with the SAVE program to the U.S. Department of Homeland Security and the U.S. Secretary of State, (4) create a final benefit decision from the SAVE Program determination, and (5) take appropriate action if any individual makes fraudulent claims on their affidavit. It is unknown how many state agencies currently use the SAVE Program. Additionally, state agencies that administer federal, state, or local public benefits will be required to submit an annual report to Legislative Services Agency detailing their compliance with the legislation.

The SAVE program is administered by the United States Citizenship and Immigration Services (USCIS), which is an agency housed in the U.S. Department of Homeland Security. Fees are charged to entities that request verification with the SAVE program. Effective October 1, 2008, agencies are billed on a monthly basis. Fees include a uniform rate of \$0.50 per initial electronic query, an additional \$0.50 for each query requiring additional verification, and a \$2.00 charge for each manual verification request submitted via the G-845 Form. Nonfederal agencies are billed on a monthly basis with invoices containing "pay by" dates 30 days after the end of the month of SAVE activity. Increases in state expenditures for the SAVE program will depend on which agencies currently do not use the SAVE program and frequency of activity.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. [In FY 2008, the Division of Family Resources reverted \$1.3 M to the General Fund.]

This legislation can either decrease state expenditures on public benefits or allow the state to allocate benefits to other qualified applicants depending on the extent that unauthorized aliens are currently receiving public benefits. Currently, unauthorized aliens are banned from receiving any federal public benefit except for care and services necessary for the treatment of an emergency medical condition. Furthermore, federal law states that unauthorized aliens are not eligible for any state or local public benefit program that receives federal funding in full or in part. Any reduction in state expenditures will depend on; (1) how many unauthorized aliens were unlawfully receiving public benefits and (2) if the state diverts resources to other qualified applicants. Any actual reduction in state expenditures on public benefits is indeterminable.

Penalty Provision: The bill provides that a person who makes a false, fictitious, or fraudulent statement of

representation in an affidavit verifying lawful presence commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background Information: The Family and Social Services Administration (FSSA) reports that immigration documents are requested from all noncitizens for verification using the SAVE Program. If an immigrant fails to provide FSSA with documentation, they are regarded as an unauthorized immigrant and hence ineligible for benefits. Currently, individuals cannot receive benefits without completing the SAVE verification process.

Indiana Code currently specifies that unauthorized immigrants are not eligible for Temporary Assistance for Needy Families (TANF), Medicaid, and unemployment insurance. This bill would encompass the remaining state benefits that do not receive federal funding.

The PEW Hispanic Center estimates that in 2006 there were approximately 100,000 undocumented aliens residing in Indiana. During 2005, an estimated 128,000 authorized immigrants were admitted to the United States that claimed Indiana as their state of destination. Additionally, approximately 58,000 immigrants in Indiana achieved legal status between 1998 and 2007. These figures represent the population that would be subjected to SAVE verification under this bill provided they (1) apply for public benefits, (2) identify themselves as legal residents, and (3) complete the affidavit.

Explanation of State Revenues: If individuals are removed from public benefit payrolls and resources are not allocated to other individuals that would qualify for benefits, the state could experience a decrease in federal revenue for programs with federal reimbursement. Some public benefit programs are reimbursable by the federal government. Should the state not reallocate the funds to other persons within a program for services, the state could potentially reduce its overall federal funding.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: The bill will affect the workload of political subdivisions to verify the legal presence of those who apply for public benefits administered at the local level. Actual increases in workload are indeterminable.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local

expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC; FSSA.

Local Agencies Affected: Potentially all local units.

Information Sources: Jim Dunn, FSSA; Indiana Sheriffs' Association; DOC; U.S. Department of Homeland Security, Indiana State Budget Agency.

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